BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

BETTY L. WEATHERMAN)
Claimant)
VS.)
) Docket No. 220,402
FELIPE'S RESTAURANTS, INC.)
Respondent)
AND)
)
TRAVELERS INSURANCE COMPANY)
Insurance Carrier)

ORDER

Claimant appeals from a preliminary hearing Order entered by Administrative Law Judge John L. Frobish on April 18, 1997.

Issues

Claimant asks the Appeals Board to review the decision regarding the amount of claimant's temporary total disability benefit. Specifically, the claimant contends that the disability benefit should be computed on the basis of combined wages for two part-time jobs in accordance with K.S.A. 44-511(7). The Administrative Law Judge ruled that the benefits should be based solely on the part-time job at which claimant was working at the time of the injury.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments, the Appeals Board concludes that the issue raised by claimant in this appeal is not subject to review by the Appeals Board in an appeal from a preliminary hearing order. K.S.A. 1996 Supp. 44-551 authorizes an appeal from a preliminary hearing order only on cases where there is an allegation that the administrative law judge exceeded his jurisdiction. K.S.A. 1996 Supp.

44-534a identifies certain specific jurisdictional issues. The issue raised here is not a jurisdictional issue and does not otherwise constitute an allegation that the Administrative Law Judge exceeded his jurisdiction.

WHEREFORE, the Appeals Board finds that the Order by Administrative Law Judge John L. Frobish, dated April 18, 1997, should, and does, remain in effect as originally entered.

IT IS SO ORDERED.

Dated this ____ day of June 1997.

BOARD MEMBER

c: Steven L. Foulston, Wichita, KS William L. Townsley, III, Wichita, KS John L. Frobish, Administrative Law Judge Philip S. Harness, Director